

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: September 18, 2015

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TAYARI JACKSON, :
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Plaintiff, :
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-against- :
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SERGEANT DAVID KAUFMAN, et al., :
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Defendants. :
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13 Civ. 6544 (PAC)(DF)

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

HONORABLE PAUL A. CROTTY, United States District Judge:

Plaintiff Tayari Jackson (“Plaintiff”) brings this action pursuant to 42 U.S.C. § 1983, alleging that he was assaulted by corrections officers at Green Haven Correctional Facility and that Defendant Dr. Robert Bentivegna (“Bentivegna”) violated his Eighth Amendment rights by providing him with inadequate medical care for his ensuing injuries. Bentivegna moves for partial summary judgment of the claims against him.

On August 25, 2015, Magistrate Judge Freeman issued a Report and Recommendation (“R & R”), recommending that summary judgment be granted on the claims against Bentivegna. R & R at 23. Magistrate Judge Freeman found that Plaintiff has not shown any genuine issue of material fact with respect to Bentivegna’s state of mind. *Id.* at 17-22. The R & R discusses the fact that Plaintiff’s own descriptions of the medical care he receives demonstrate that Bentivegna did not “disregard[] an excessive risk to inmate health or safety.” *Id.* at 18 (internal citation omitted). Magistrate Judge Freeman also found that Bentivegna is entitled to qualified immunity

with respect to Plaintiff's claims against him, because the evidence shows there was no violation of a statutory or constitutional right. *Id.* at 23.

The Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where neither party has objected to the R & R, the Court reviews the R & R for clear error. *See Carlson v. Dep't of Justice*, 2012 WL 928124, at *1 (S.D.N.Y. Mar. 19, 2012). The parties here had fourteen days after being served with the R & R to file any objections, and neither party did so, resulting in the waiver of any objections. *Grady v. Conway*, 2015 WL 5008463, at *3 (S.D.N.Y. Aug. 24, 2015).

Accordingly, the Court reviews the R & R for clear error and finds none. Magistrate Judge Freeman's R & R is adopted in its entirety and Plaintiffs' claims against Bentivegna are dismissed. The Clerk of the Court is directed to terminate the pending motion at Docket 50. The reference to Magistrate Judge Freeman is continued.

Dated: New York, New York
September 18, 2015

SO ORDERED



PAUL A. CROTTY
United States District Judge